

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
CENTRAL DIVISION

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
JUL 16 2024  
By: TAMMIE H. DOWNS, CLERK  
DEP CLERK

UNITED STATES OF AMERICA

PLAINTIFF

v.

No. 4:21-cr-69-DPM-2

LOURENCO LEE  
Reg No. 37437-509

DEFENDANT

**ORDER**

1. The Court received the attached letter from the Bureau of Prisons. The Bureau has requested a non-binding recommendation about whether Lee's sentence in this case should run concurrent or consecutive to three sentences imposed by the Circuit Court of Pulaski County, Arkansas. *See Fegans v. United States*, 506 F.3d 1101, 1104 (8th Cir. 2007). Lee then filed a motion to reduce his sentence based on amendments to the Sentencing Guidelines. The United States opposes the motion.

2. The Court will answer the Bureau's question first. The Judgment was silent on this point. 18 U.S.C. § 3584(a). On the one hand, the charges in the federal case and two of Lee's states cases are essentially the same: being a felon in possession of ammunition or a firearm. That weighs in favor of a concurrent sentence. But there's a distinguishing factor, too. Lee was on state probation when he committed his new crimes. His probation was revoked, and he was sentenced to twenty-one

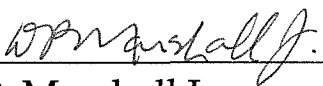
months, though his sentence was later reduced. The Court's non-binding view is that a consecutive sentence is just and fair in this case. U.S.S.G. 5G1.3(d).

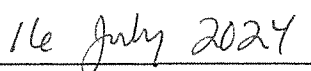
3. That leaves Lee's motion to reduce his federal sentence. When he was sentenced, he received two criminal history status points because he was on probation when he committed his new crime. His total criminal history score was three, placing him in criminal history category II. With an offense level of fifteen, Lee's advisory guideline range was twenty-one to twenty-seven months. The Court sentenced him to twenty-one months.

Lee wouldn't receive any status points under the amended Guidelines. He is now in criminal history category I. His revised advisory guideline range is eighteen to twenty-four months.

The United States opposes the motion. Lee was involved in two incidents where he fired a gun. Thankfully no one was hurt. But, the United States argues, the 3553(a) factors do not weigh in favor of a reduced sentence. The Court agrees. All material things considered, a twenty-one-month sentence, which is in the middle of the revised guidelines range, is just and fair. Lee's motion, *Doc. 98*, is denied.

So Ordered.

  
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D.P. Marshall Jr.  
United States District Judge

  
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U.S. Department of Justice

Federal Bureau of Prisons

Designation and Sentence Computation Center

U.S. Armed Forces Reserve Complex  
346 Marine Forces Drive  
Grand Prairie, Texas 75051

May 15, 2024

The Honorable D.P. Marshall, Jr.  
United States District Court Judge  
for the Eastern District of Arkansas  
600 West Capitol Avenue, Room B149  
Little Rock, Arkansas 72201

**RE: LEE, Lourenco**

Register Number: 37437-509

Case Number: 4:21-cr-69-DPM-2

Dear Judge Marshall:

On May 1, 2023, Lourenco Lee was sentenced by the Court to a 21-month term of confinement for Felon in Possession of Ammunition. Mr. Lee has requested credit for time spent in service of a state sentence, which the Bureau of Prisons (Bureau) considers a request for a retroactive designation, which would in turn make his federal sentence concurrent with his state term. This would be accomplished by the Bureau designating the state institution for service of his federal sentence under 18 U.S.C. § 3621(b). Such action would thereby reduce the total amount of time spent in custody. In Setser v. United States, 566 U.S. 231, 237 (2012), the United States Supreme Court held that the authority to order a federal sentence concurrent with or consecutive to any other sentence rests with the federal sentencing court. The Bureau is requesting guidance as to how Mr. Lee's federal sentence should run with respect to sentences he has served with the State of Arkansas.

At the time the federal sentence was imposed, Mr. Lee was under the primary jurisdiction of state authorities in Arkansas, and in federal custody pursuant to a writ of habeas corpus. The respective Judgment in a Criminal Case was silent regarding any relationship with the forthcoming action by the state. Following sentencing, Mr. Lee was returned to state authorities and the U.S. District Court Judgment was filed as a detainer.

On May 15, 2023, Mr. Lee was sentenced by the State of Arkansas to a 21-month term of imprisonment for Possession of Firearms by Certain Persons, in Pulaski County Circuit Court Case Numbers 60CR-20-2030 and 60CR-21-1402. On this date, Mr. Lee's probation was also revoked by the State of Arkansas in Pulaski County Circuit Court Case Number 60CR-16-3988, and he was sentenced to a 21-month (later reduced to 120 days) term of imprisonment. The state information received by the Bureau indicates the court intended the sentences to run concurrently with the federal sentence. On October 27, 2023, Mr. Lee's state obligations were satisfied, and he was released to the federal detainer to commence the service of his federal sentence as provided by 18 U.S.C. § 3585(a).

The Bureau strives to administer sentences in accordance with federal statutes, Bureau policy, and the intent of the sentencing court. If, after 60 days, a response has not been received from the Court, the Bureau will complete its review and make a decision regarding this case.

Should the Court indicate the sentence is to run concurrently with the state terms, the Bureau will commence the sentence in the above judgment on a date which would result in the satisfaction of his federal sentence and the release from Bureau custody of Mr. Lee. Should the Court indicate the sentence is to run consecutively to the state terms, he will continue to a current projected release date of November 24, 2024.

We respectfully request that you please advise us in writing at your earliest convenience, as to the Court's position on a retroactive designation in this case. Should additional information be necessary, please contact Marcus Boudreaux, Correctional Programs Specialist, at 972-595-3189.

Sincerely,

*Emma M. Burleson*

Kathy Williams, Section Chief  
Sentence Computations

mgb

cc: John Ray White, AUSA  
Emma M. Burleson, USPO